

Employees in Indiana are subject to two state wage garnishment statutes. The first is a general wage garnishment law that governs wage withholding for the payment of all judgments, including those arising from debts and from support obligations which is the Indiana Uniform Consumer Credit Code. The second was enacted in April of 1985, pursuant to a federal mandate and applied only to wage withholding for the payment of child support obligations.

While both laws have several common provisions, each will be discussed separately. This information is intended for general informational purposes only. Questions or request for advice concerning specific problems should be directed to your attorney or, if involving child support, to the Child Support Division of the Indiana State Department of Public Welfare.

INDIANA'S GENERAL WAGE GARNISHMENT STATUTE

How is the obligation to withhold triggered?

The employer has no obligation to make deductions from an employee's pay unless and until it receives a court order to do so. A judgment against the employee by a creditor or other party is not enough to trigger the withholding requirement.

What is the maximum amount that may be withheld from an employee's pay pursuant to one or more garnishment orders?

Under state law, with the exception of support orders, the total weekly amount that may be withheld for the payment of one or more garnishments cannot exceed the lesser of:

- 25% of the employee's weekly disposable earnings; or
- the amount by which the employee's weekly disposable earnings exceed 30 times the federal minimum wage ($30 \times \$5.15 = \154.50).

Example 1: If the employee's weekly disposable earnings are \$175.00, the maximum weekly amount that may be withheld from his pay is \$20.50 ($\$175.00 - \154.50) because this is less than \$43.75 (25% of \$175.00).

Example 2: If the employee's weekly disposable earnings are \$300, the maximum weekly amount that may be withheld from his pay is \$75.00 (25% of \$300) because this is less than \$145.50 ($\$300 - \154.50).

What are "disposable earnings"?

This term is defined to include only those earnings which are left after all deductions required by law are taken from the employee's check. Hence, amounts required to be withheld for social security and income taxes would not be included in disposable earnings. On the other hand, amounts withheld from the employee's earnings at his request or through an agreement with a labor union (union dues) or similar organization are included in disposable earnings since they are not considered deductions required by law for purposes of wage garnishment. In determining the maximum amount that may be garnished, garnishments now being deducted are also included in disposable earnings.

What is the maximum amount that may be withheld relative to support orders?

The maximum amount that may be withheld depends upon the employee's present dependents and prior support obligations. Sixty percent of the employee's weekly disposable earnings may be withheld to pay support orders, unless the employee is presently supporting a spouse or dependent child other than the one for whom the support is being ordered. In the latter case, only 50% of the employee's weekly disposable earnings may be withheld. In either case, the maximum proportion is increased by 5% if the employee is more than 12 weeks behind with the payment of support.

How can the maximum amounts be determined if the employee is not paid weekly?

In the case of a pay period longer than a week, the pay period maximum may be computed simply as a multiple of the weekly maximum. Hence, if the employee is paid every 2 weeks, the weekly maximum would simply be doubled. If the employee is paid semi-monthly, the weekly maximum would be multiplied by 2 and then divided by the number of pay periods in a year, 24. Similarly, the pay period maximum for a monthly payroll would be computed by multiplying the weekly maximum by 52 and then dividing by the number of pay periods in a year 12.

Example 1: If the employee is paid every 2 weeks, the federal minimum wage component of the maximum formula would be \$309.00 ($\154.50×2).

Example 2: If the employee is paid twice per month, the federal minimum wage component of the formula would be \$334.75 ($\$154.50 \times 52 / 24$).

If an employee has a creditor garnishment order and a support order against his wages, which has priority?

Regardless which comes first, the support order always takes priority. The creditor garnishment can then be honored only if and to the extent wages withheld pursuant to the support order do not exceed the general wage garnishment maximum (the lesser of 25% of the employee's weekly disposable earnings and the difference between the employee's weekly disposable earning and 30 times the federal minimum wage).

What if the garnishment order demands too much?

In this situation, the employer may wish to contact the issuing court and attempt to resolve the problem informally. Otherwise, or if unable to obtain satisfactory resolution from the issuing court, the employer should seek legal advice.

May the employer collect a fee for withholding?

Yes. The employer may deduct a fee of the greater of \$12 or 3% of the total amount required to be deducted by the garnishment order or series of orders arising out of the same debt. No special court order is necessary for the employer to make this deduction. If the employer chooses to deduct the fee, 1/2 the fee must be borne by the employee and 1/2 by the creditor. The employer may deduct the entire fee from one or more of the initial deductions from the employee's pay if it may make the deduction in equal portions over the life of the garnishment order.

The deductions made for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collection judgment interest.

Example: If the garnishment order is for \$1,000 and results in a deduction of \$100 per pay period for 10 pay periods, the employer may deduct a fee of \$30 (3% of the \$1,000). Half of this amount, \$15 may be deducted from the amount submitted to the creditor. Hence, the creditor will actually receive only \$985. The other \$15 may be deducted from the employee's pay.

Can an employee be discharged for garnishments?

NO. If an employer discharges an employee because of garnishments or attempted garnishments, the employee may bring a civil action against the employer for reinstatement and for up to 6 weeks of lost wages.

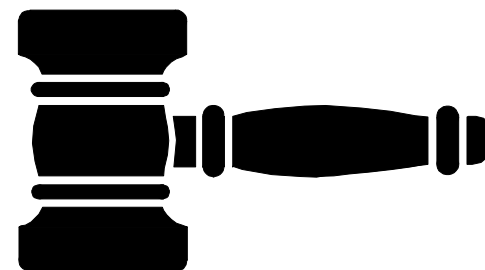
The Indiana Department of Financial Institutions, Division of Consumer Credit has many other credit related brochures available, such as:

- Answers to Credit Problems
- Applying for Credit
- At Home Shopping Rights
- Bankruptcy Facts
- Buried in Debt
- Car Financing Scams
- Charge Card Fraud
- Choosing A Credit Card
- Co-Signing
- Credit and Divorce
- Credit and Older Consumers
- Deep in Debt?
- Equal Credit Opportunity
- Fair Credit Reporting
- Fair Debt Collection
- Gold Cards
- Hang up on Fraud
- High Rate Mortgages
- Home Equity Credit Lines
- How to Avoid Bankruptcy
- Indiana Uniform Consumer Credit Code
- Look Before you Lease
- Mortgage Loans
- Repossession
- Reverse Mortgage Loans
- Rule of 78s – What is it?
- Scoring for Credit
- Shopping for Credit
- Using Credit Cards
- Variable Rate Credit
- What is a Budget?

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GENERAL WAGE GARNISHMENT IN INDIANA



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